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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,093	08/21/2001	Sjoerd Stallinga	PHN 17,843	9205

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
BATTAGLIA, MICHAEL V	
ART UNIT	**PAPER NUMBER**
2652	

DATE MAILED: 10/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/914,093	STALLINGA ET AL.	
	Examiner	**Art Unit**	
	Michael V Battaglia	2652	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on *07 September 2004*. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *1-3 and 5-13*.

   Claim(s) objected to: *16*.

   Claim(s) rejected: *14,15 and 17*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Continuation of 3. Applicant's reply has overcome the following rejection(s): Arguments persuasive concerning rejections under 35 USC 102 over Wada et al.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments with respect to claim 14 have been considered but are moot in view of the new interpretation provided below. Ohsato (EP 0 745 980 A1) discloses a method for modifying a radiation beam in a scanning device for an optical record carrier, the method comprising: using a wavefront modifier (Figs. 8 and 10, element 120) comprising at least first (Fig. 10, element 120B3) and second (Fig. 10, element 120B) transparent electrode layers, at least one of the layers (Fig. 10, elements 120B3) having a center of symmetry that is displaced from a center of symmetry of the modifier as a whole; a medium (Fig. 10, element 120A) for modifying the wavefront in dependence on electrical excitation from the electrodes; adjusting voltage of one or both electrodes to alter an effect of the wave front modifier to compensate for expected motion of an objective lens system of the scanning device (Page 6, lines 43-45); and receiving and modifying a radiation beam using the modifier with the altered effect (Fig. 8). The center of symmetry of the modifier as a whole is interpreted to be in the optical center of the radiation beam (Fig. 8, element LA1) in the direction of the optical axis that passes through the center of modifier. Each of the electrodes (Fig. 10, elements 120B1-120B3) is interpreted as a separate layer. The center of symmetry of the electrode layer (Fig. 10, element 120B3) is interpreted to be the line parallel to the optical axis, running through the center of the electrode layer (Fig. 10, element 120B3), and displaced from the center of symmetry of the modifier as a whole. The examiner notes that the optical disc (Fig. 8, element 102) tilts and causes coma aberration and that the expected motion of the objective system is in relation to the tilting optical disc.

Applicant's arguments filed August 30, 2004 with respect to claim 15 have been fully considered but they are not persuasive. In response to applicant's argument that the Hashimoto fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., electrodes arranged around the center of symmetry of the modifier) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). It is noted that the claimed center of symmetry is interpreted as the center of symmetry of the electrodes. It is further noted that the even if claim 14 were amended to include the center of symmetry of the modifier, the center of symmetry of the modifier would be interpreted as the optical axis, which travels in the Z-direction through the center of the modifier (Fig. 16, element 504) and the center of the first and second electrode layers (Fig. 16, element 1610) and the rejection would still apply.

Applicant's arguments filed August 30, 2004 with respect to claim 17 have been fully considered but they are not persuasive. Komma et al (hereafter Komma) (US 5,495,461) discloses an optical wavefront modifier (Figs. 1 and 2, element 170) for modifying a wavefront of an optical beam passing through the modifier, the modifier comprising at least first and second transparent electrode layers (Fig. 2, element 16 and Col. 8, lines 56-57), at least the first electrode layer comprising three or more electrodes (Figs. 2 and 3(c), element 16) of a transparent, conductive material, wherein a difference between a maximum value taken by the aberration function in the area occupied by an electrode and a minimum value taken by the aberration function in the area occupied by that electrode is substantially equal for all electrodes of the wavefront modifier (Fig. 4); and at least one medium (Fig. 2, element 17) for modifying the wavefront in dependence on electrical excitation of the medium, the medium being arranged between the electrode layers. Aberration is a deviation from a proper or expected course. Diffraction is interpreted as aberration because when light is diffracted, it is deviates from it expected or straight (non-diffracted) course. The aberration function is the diffraction efficiency of an electrode dependent on the amount of applied voltage and the light's polarization angle. A voltage is applied to all of the electrodes of the first layer (Fig. 2(b)) and the area occupied by each of the electrodes will produce the same aberration to the wavefront. The maximum and minimum values of the aberration function will be the same for each area occupied by an electrode because each electrode has the same voltage applied to it and the same light passing through it. The difference between the maximum and minimum values for all electrodes will be substantially equal because all electrodes have the same maximum and minimum values..

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